

107TH CONGRESS  
1ST SESSION

# H. R. 2880

To amend laws relating to the lands of the citizens of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, historically referred to as the Five Civilized Tribes, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12 (legislative day, SEPTEMBER 11), 2001

Mr. WATKINS of Oklahoma (for himself, Mr. CARSON of Oklahoma, Mr. KILDEE, and Mr. CONDIT) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To amend laws relating to the lands of the citizens of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, historically referred to as the Five Civilized Tribes, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Five Nations Citizens Land Reform Act”.

6       (b) TABLE OF CONTENTS.—The table of contents of  
7       this Act is as follows:

Sec. 1. Short title; table of contents.

- Sec. 2. Findings.
- Sec. 3. Purpose.
- Sec. 4. Definitions.

#### TITLE I—RESTRICTIONS; REMOVAL OF RESTRICTIONS

- Sec. 101. Restrictions on real property.
- Sec. 102. Reinvestment of proceeds from condemnation or conveyance of restricted property.
- Sec. 103. Restricted funds.
- Sec. 104. Period of restrictions.
- Sec. 105. Removal of restrictions.
- Sec. 106. Exemptions from prior claims.
- Sec. 107. Fractional interests.

#### TITLE II—ADMINISTRATIVE APPROVAL OF CONVEYANCES, PARTITIONS, LEASES, AND MORTGAGES; MANAGEMENT OF MINERAL INTERESTS

- Sec. 201. Approval authority for conveyances and leases.
- Sec. 202. Approval of conveyances.
- Sec. 203. Reimposition of restrictions on conveyances of property to Indian housing authorities.
- Sec. 204. Administrative partition.
- Sec. 205. Surface leases.
- Sec. 206. Mineral leases.
- Sec. 207. Management of mineral interests.
- Sec. 208. Mortgages.

#### TITLE III—PROBATE, HEIRSHIP DETERMINATION, AND OTHER JUDICIAL PROCEEDINGS

- Sec. 301. Actions affecting restricted property.
- Sec. 302. Heirship determinations and probates.
- Sec. 303. Actions to cure title defects.
- Sec. 304. Involuntary partitions.
- Sec. 305. Requirements for actions to cure title defects and involuntary partitions.
- Sec. 306. Pending State proceedings.

#### TITLE IV—MISCELLANEOUS

- Sec. 401. Regulations.
- Sec. 402. Validation of certain transactions; savings clause.
- Sec. 403. Repeals.
- Sec. 404. Secretarial trust responsibility.
- Sec. 405. Representation by attorneys for the Department of the Interior.
- Sec. 406. Filing requirements; constructive notice.

### 1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

- 3 (1) Since 1970, Federal Indian policy has fo-
- 4 cused on Indian self-determination and economic

1 self-sufficiency. The exercise of Federal instrumen-  
2 tality jurisdiction by the Oklahoma State courts over  
3 the Indian property that is subject to Federal re-  
4 strictions against alienation belonging to members of  
5 the Five Nations is inconsistent with that policy.

6 (2) It is a goal of Congress to recognize the In-  
7 dian land base as an integral part of the culture and  
8 heritage of Indian citizens.

9 (3) The exercise of Federal instrumentality ju-  
10 risdiction by the courts of the State of Oklahoma  
11 over conveyances and inheritance of restricted prop-  
12 erty belonging to Indian citizens of the Five  
13 Nations—

14 (A) is costly, confusing, and cumbersome,  
15 and effectively prevents any meaningful Indian  
16 estate planning, and unduly complicates the  
17 probating of Indian estates and other legal pro-  
18 ceedings relating to Indian citizens and their  
19 lands; and

20 (B) has impeded the self-determination  
21 and economic self-sufficiency of Indian citizens  
22 within the exterior boundaries of the Five Na-  
23 tions.

24 **SEC. 3. PURPOSE.**

25 (a) IN GENERAL.—It is the purpose of this Act to—

1           (1) correct the disparate Federal treatment of  
2       individual allotted lands of Indian citizens of the  
3       Five Nations that resulted from prior Federal legis-  
4       lation by equalizing the Federal legislative treatment  
5       of restricted and trust lands;

6           (2) eliminate unnecessary legal and bureau-  
7       cratic obstacles that impede the highest and best use  
8       of restricted property belonging to Indian citizens of  
9       the Five Nations;

10          (3) provide for an efficient process for the ad-  
11       ministrative review and approval of conveyances, vol-  
12       untary partitions, and leases, and to provide for  
13       Federal administrative proceedings in testate and in-  
14       testate probate and other cases that involve the re-  
15       stricted property of Indian citizens, which concern  
16       the rights of Indian citizens to hold and acquire  
17       such property in restricted and trust status; and

18          (4) transfer to the Secretary the Federal instru-  
19       mentality jurisdiction of the Oklahoma State courts  
20       together with other authority currently exercised by  
21       such courts over the conveyance, devise, inheritance,  
22       lease, encumbrance, and partition under certain cir-  
23       cumstances of restricted property belonging to In-  
24       dian citizens of the Five Nations.

1 (b) RULE OF CONSTRUCTION.—Nothing in this Act  
2 shall be construed to limit or affect the rights of Indian  
3 citizens under other Federal laws relating to the acquisi-  
4 tion and status of trust property, including without limita-  
5 tion, the Act of June 18, 1934 (25 U.S.C. 461 et seq.)  
6 (commonly known as the Indian Reorganization Act), the  
7 Act of June 26, 1936 (25 U.S.C. 501 et seq.) (commonly  
8 known as the Oklahoma Indian Welfare Act), the Indian  
9 Land Consolidation Act (25 U.S.C. 2201 et seq.), and reg-  
10 ulations relating to the Secretary’s authority to acquire  
11 lands in trust for Indians and Indian tribes.

12 **SEC. 4. DEFINITIONS.**

13 In this Act:

14 (1) FIVE NATIONS.—The term “Five Nations”  
15 means the Cherokee Nation, the Chickasaw Nation,  
16 the Choctaw Nation of Oklahoma, the Seminole Na-  
17 tion of Oklahoma, and the Muscogee (Creek) Nation,  
18 collectively, which are historically referred to as the  
19 “Five Civilized Tribes”.

20 (2) INDIAN CITIZEN.—The term “Indian cit-  
21 izen” means a member or citizen of one of the indi-  
22 vidual Five Nations referred to in paragraph (1), or  
23 an individual who is a lineal descendant by blood of  
24 an Indian ancestor enrolled on the final Indian rolls  
25 of the Five Civilized Tribes closed in 1906.

1           (3) INDIAN COUNTRY.—The term “Indian coun-  
2       try” has the meaning given that term in section  
3       1151 of title 18, United States Code, which includes  
4       restricted property and trust property (as such  
5       terms are defined in this Act).

6           (4) INDIAN NATION.—The term “Indian Na-  
7       tion” means one of the individual Five Nations re-  
8       ferred to in paragraph (1).

9           (5) REGIONAL OFFICE.—The term “Regional  
10      Office” means the Eastern Oklahoma Regional Of-  
11      fice of the Bureau of Indian Affairs, or any suc-  
12      cessor office within the Department of the Interior.

13          (6) RESTRICTED PROPERTY.—The term “re-  
14      stricted property” means any right, title, or interest  
15      in real property owned by an Indian citizen that is  
16      subject to a restriction against alienation, convey-  
17      ance, lease, mortgage, creation of liens, or other en-  
18      cumbrances imposed by this Act and other laws of  
19      the United States expressly applicable to the prop-  
20      erty of enrollees and lineal descendants of enrollees  
21      on the final Indian rolls of the Five Civilized Tribes  
22      in 1906, and includes, without limitation, those in-  
23      terests in property that were subject to a restriction  
24      against alienation imposed by the United States on  
25      the ownership of an Indian citizen who died prior to

1 the effective date of this Act but whose interest had  
2 not, as of the effective date of this Act—

3 (A) been the subject of a final order deter-  
4 mining heirs by a State district court or a  
5 United States district court;

6 (B) been conveyed by heirs by deed ap-  
7 proved in State district court; or

8 (C) been conveyed by heirs of less than  
9 one-half degree of Indian blood with or without  
10 State district court approval.

11 The term restricted property shall not include In-  
12 dian trust allotments made pursuant to the General  
13 Allotment Act (25 U.S.C. 331 et seq.) or any other  
14 trust property.

15 (7) SECRETARY.—The term “Secretary” means  
16 the Secretary of the Interior or the designee of the  
17 Secretary of the Interior.

18 (8) TRUST PROPERTY.—The term “trust prop-  
19 erty” means Indian property, title to which is held  
20 in trust by the United States for the benefit of an  
21 Indian citizen or an Indian Nation.

**TITLE I—RESTRICTIONS;  
REMOVAL OF RESTRICTIONS**

**SEC. 101. RESTRICTIONS ON REAL PROPERTY.**

(a) APPLICATION.—Beginning on the effective date of this Act, all restricted property shall be subject to restrictions against alienation, conveyance, lease, mortgage, creation of liens, or other encumbrances, regardless of the degree of Indian blood of the Indian citizen who owns such property.

(b) CONTINUATION.—

(1) IN GENERAL.—The restrictions made applicable under subsection (a) shall continue with respect to restricted property upon the acquisition of such property by an Indian citizen by inheritance, devise, gift, or exchange.

(2) WITH WAIVER.—The restrictions made applicable under subsection (a) shall continue with respect to restricted property upon the acquisition of such property by an Indian citizen by election to take at partition or by purchase, but only if—

(A) prior to the execution of the deed transferring such restricted property, the Indian citizen who owned such property prior to such election to take or purchase executes a written waiver of his or her right to acquire



1 other property in restricted status pursuant to  
2 section 102; and

3 (B) such restrictions appear in the deed  
4 transferring such property to the Indian citizen  
5 electing to take at partition or purchasing such  
6 property, together with certification on said  
7 deed by the Secretary that the requirements of  
8 this paragraph have been met.

9 **SEC. 102. REINVESTMENT OF PROCEEDS FROM CONDEMNATION OR CONVEYANCE OF RESTRICTED**  
10 **PROPERTY.**  
11

12 (a) REQUIREMENT.—Upon the conveyance of the re-  
13 stricted property of an Indian citizen pursuant to this Act,  
14 or upon the conveyance or condemnation of such property  
15 pursuant to section 3 of the Act of March 3, 1901 (25  
16 U.S.C. 357) or other Federal laws generally applicable to  
17 the condemnation of Indian trust or restricted property,  
18 to any individual, corporation, or other entity, any pro-  
19 ceeds from such conveyance or condemnation shall be used  
20 to purchase from a willing seller other property designated  
21 by such Indian citizen, and such designated property shall  
22 be restricted property within the meaning of this Act if—

23 (1) such proceeds were deposited into a seg-  
24 regated account in a trust fund under the super-

1 vision of the Secretary at the request of the Indian  
2 citizen;

3 (2) such Indian citizen provides a written re-  
4 quest to the Secretary for payment of all or a por-  
5 tion of such proceeds for purchase of property to be  
6 held in restricted status;

7 (3) such Indian citizen has not executed a writ-  
8 ten waiver of his or her right to acquire other prop-  
9 erty in restricted status pursuant to section 101;  
10 and

11 (4) such restrictions appear in the conveyance  
12 to the Indian citizen with certification by the Sec-  
13 retary that the requirements of this section have  
14 been met.

15 (b) FAIR MARKET VALUE IN EXCESS OF PRO-  
16 CEEDS.—If the fair market value of any property des-  
17 igned under subsection (a) exceeds the amount of pro-  
18 ceeds that are derived from the conveyance or condemna-  
19 tion involved, a specific tract of land within the property  
20 shall be designated by the Indian citizen for placement in  
21 restricted status. The size of the restricted tract of land  
22 so designated shall be in the same proportion to the whole  
23 of the property as the proceeds derived from the convey-  
24 ance or condemnation bears to the fair market value of  
25 the whole of the property. Such restrictions shall appear

1 on the face of the deed with certification by the Secretary  
2 describing that portion of the property which is subject  
3 to restrictions and certifying that the requirements of this  
4 section have been met.

5 **SEC. 103. RESTRICTED FUNDS.**

6 (a) IN GENERAL.—All funds and securities held or  
7 supervised by the Secretary derived from restricted prop-  
8 erty or individual Indian trust property on or after the  
9 effective date of this Act, including proceeds from any con-  
10 veyance or condemnation as provided for in section 102,  
11 are declared to be restricted and shall remain subject to  
12 the jurisdiction of the Secretary until or unless otherwise  
13 provided for by Federal law.

14 (b) USE OF FUNDS.—Funds, securities, and proceeds  
15 described in subsection (a) may be released or expended  
16 by the Secretary for the use and benefit of the Indian citi-  
17 zens to whom such funds, securities, and proceeds belong,  
18 as provided for by Federal law.

19 **SEC. 104. PERIOD OF RESTRICTIONS.**

20 Subject to the provisions of this Act that permit re-  
21 strictions to be removed, the period of restriction against  
22 alienation, conveyance, lease, mortgage, creation of liens,  
23 or other encumbrances of restricted property and funds  
24 belonging to Indian citizens, is hereby extended until an  
25 Act of Congress determines otherwise.

1 **SEC. 105. REMOVAL OF RESTRICTIONS.**

2 (a) PROCEDURE.—

3 (1) APPLICATION.—An Indian citizen who owns  
4 restricted property, or the legal guardian of a minor  
5 Indian citizen or an Indian citizen who has been de-  
6 termined to be legally incompetent by a court of  
7 competent jurisdiction (including a tribal court),  
8 may apply to the Secretary for an order removing  
9 restrictions on any interest in restricted property  
10 held by such Indian citizen.

11 (2) CONSIDERATION OF APPLICATION.—An ap-  
12 plication under paragraph (1) shall be considered by  
13 the Secretary only as to the tract, tracts, or severed  
14 mineral or surface interest described in the applica-  
15 tion. Not later than 90 days after the date on which  
16 an application is submitted, the Secretary shall ei-  
17 ther issue the removal order or disapprove the appli-  
18 cation.

19 (3) DISAPPROVAL.—The Secretary shall dis-  
20 approve an application under paragraph (1) if—

21 (A) in the Secretary's judgment, the appli-  
22 cant has been subjected to fraud, undue influ-  
23 ence, or duress by a third party; or

24 (B) the Secretary determines it is other-  
25 wise not in the Indian citizen owner's best in-  
26 terest.

1 (b) REMOVAL OF RESTRICTIONS.—When an order to  
 2 remove restrictions becomes effective under subsection (a),  
 3 the Secretary shall issue a certificate describing the prop-  
 4 erty and stating that the Federal restrictions have been  
 5 removed.

6 (c) SUBMISSION OF LIST.—Prior to or on April 1 of  
 7 each year, the Secretary shall cause to be filed with the  
 8 county treasurer of each county in the State of Oklahoma  
 9 where restricted property is situated, a list of restricted  
 10 property that has lost its restricted status during the pre-  
 11 ceding calendar year through acquisition of ownership by  
 12 an individual or entity who is not an Indian citizen or by  
 13 removal of restrictions pursuant to this section.

14 (d) RULE OF CONSTRUCTION.—Nothing in this sec-  
 15 tion shall be construed to—

16 (1) abrogate valid existing rights to property  
 17 that is subject to an order to remove restrictions  
 18 under this section; and

19 (2) remove restrictions on any other restricted  
 20 property owned by the applicant.

21 **SEC. 106. EXEMPTIONS FROM PRIOR CLAIMS.**

22 Sections 4 and 5 of the Act of May 27, 1908 (35  
 23 Stat. 312, chapter 199), shall apply to all restricted prop-  
 24 erty.

1 **SEC. 107. FRACTIONAL INTERESTS.**

2       Upon application by an Indian citizen owner of an  
3 undivided unrestricted interest in property of which a por-  
4 tion of the interests in such property is restricted as of  
5 the effective date of this Act, the Secretary is authorized  
6 to convert that unrestricted interest into restricted status  
7 if all of the interests in the property are owned by Indian  
8 citizens as tenants in common as of the date of the appli-  
9 cation under this section.

10 **TITLE II—ADMINISTRATIVE AP-**  
11 **PROVAL OF CONVEYANCES,**  
12 **PARTITIONS, LEASES, AND**  
13 **MORTGAGES; MANAGEMENT**  
14 **OF MINERAL INTERESTS**

15 **SEC. 201. APPROVAL AUTHORITY FOR CONVEYANCES AND**  
16 **LEASES.**

17       The Secretary shall have exclusive jurisdiction to ap-  
18 prove conveyances and leases of restricted property by an  
19 Indian citizen or by any guardian or conservator of any  
20 Indian citizen who is a ward in any guardianship or con-  
21 servatorship proceeding pending in any court of competent  
22 jurisdiction, except that petitions for such approvals that  
23 are filed in Oklahoma district courts prior to the effective  
24 date of this Act may be heard and approved by such courts  
25 pursuant to the procedures described in section 1 of the  
26 Act of August 4, 1947 (61 Stat. 731, chapter 458), as

1 in effect on the day before the effective date of this Act,  
2 if the Indian citizen does not revoke in writing his or her  
3 consent to the conveyance or lease prior to final court ap-  
4 proval.

5 **SEC. 202. APPROVAL OF CONVEYANCES.**

6 (a) PROCEDURE.—

7 (1) IN GENERAL.—Except as provided in sub-  
8 section (b), restricted property may be conveyed by  
9 an Indian citizen pursuant to the procedures de-  
10 scribed in this subsection.

11 (2) REQUIREMENTS.—An Indian citizen may  
12 only convey restricted property—

13 (A) after the property is appraised by the  
14 Secretary;

15 (B) for an amount that is not less than 90  
16 percent of the appraised value of the property;

17 (C) to the highest bidder through the sub-  
18 mission to the Secretary of closed, silent bids or  
19 negotiated bids; and

20 (D) upon the approval of the Secretary.

21 (b) EXCEPTION.—

22 (1) IN GENERAL.—Notwithstanding subsection  
23 (a)(2), an Indian citizen may convey his or her re-  
24 stricted property, or any portion thereof, to any of  
25 the individuals or entities described in paragraph (2)

1 without soliciting bids, providing notice, or for con-  
2 sideration which is less than the appraised value of  
3 the property, if the Secretary determines that the  
4 conveyance is not contrary to the best interests of  
5 the Indian citizen and that the Indian citizen has  
6 been duly informed of and understands the fair mar-  
7 ket appraisal, and is not being coerced into the con-  
8 veyance.

9 (2) INDIVIDUALS AND ENTITIES.—An indi-  
10 vidual or entity described in this paragraph is—

11 (A) the Indian citizen's spouse (if he or  
12 she is an Indian citizen), father, mother, son,  
13 daughter, brother or sister, or other lineal de-  
14 scendant, aunt or uncle, cousin, niece or neph-  
15 ew, or Indian co-owner; or

16 (B) the Indian Nation whose last treaty  
17 boundaries encompassed the restricted property  
18 involved so long as the appraisal of the property  
19 was conducted by an independent appraiser not  
20 subject to the Indian Nation's control.

21 (c) STATUS.—Restricted property that is acquired by  
22 an Indian Nation whose last treaty boundaries encom-  
23 passed the restricted property shall continue to be Indian  
24 country. Upon application by the Indian Nation, the Sec-  
25 retary shall accept title to such property in trust by the



1 United States for the benefit of the Indian Nation, except  
2 that the Secretary may first require elimination of any ex-  
3 isting liens or other encumbrances in order to comply with  
4 applicable Federal title standards. The Secretary shall ac-  
5 cept title to the property in trust for the Indian Nation  
6 only if, after conducting a survey for hazardous sub-  
7 stances, he determines that there is no evidence of such  
8 substances on the property.

9 **SEC. 203. REIMPOSITION OF RESTRICTIONS ON CONVEY-**  
10 **ANCES OF PROPERTY TO INDIAN HOUSING**  
11 **AUTHORITIES.**

12 (a) IN GENERAL.—In any case where the restrictions  
13 have been removed from restricted property for the pur-  
14 pose of allowing conveyances of the property to Indian  
15 housing authorities to enable such authorities to build  
16 homes for individual owners or relatives of owners of re-  
17 stricted property, the Secretary shall issue a Certificate  
18 of Restricted Status describing the property and imposing  
19 restrictions thereon upon written request by the Indian  
20 citizen homebuyer or a successor Indian citizen home-  
21 buyer. Such request shall include evidence satisfactory to  
22 the Secretary that the homebuyer's contract has been paid  
23 in full and be delivered to the Regional Office not later  
24 than 3 years after the housing authority conveys such  
25 property back to the original Indian citizen homebuyer or

1 a successor Indian citizen homebuyer who is a citizen of  
2 the Nation whose last treaty boundaries encompass the  
3 property where the home is located.

4 (b) EXISTING LIENS.—Prior to issuing a certificate  
5 under subsection (a) with respect to property, the Sec-  
6 retary may require the elimination of any existing liens  
7 or other encumbrances which would substantially interfere  
8 with the use of the property.

9 (c) APPLICATION TO CERTAIN HOMEBUYERS.—In-  
10 dian citizen homebuyers described in subsection (a) who  
11 acquired ownership of property prior to the effective date  
12 of this Act shall have 3 years from such effective date to  
13 request that the Secretary issue a certificate under such  
14 subsection.

15 (d) RULE OF CONSTRUCTION.—Nothing in this Act  
16 shall be construed to limit or affect the rights of Indian  
17 citizens described in this section under other Federal laws  
18 and regulations relating to the acquisition and status of  
19 trust property.

20 **SEC. 204. ADMINISTRATIVE PARTITION.**

21 (a) JURISDICTION.—Except as provided in section  
22 304, the Secretary shall have exclusive jurisdiction to ap-  
23 prove the partition of property located within the last trea-  
24 ty boundaries of 1 or more of the Five Nations, all of  
25 which is held in common, in trust, or in restricted status,

1 by more than 1 Indian citizen owner, if the requirements  
2 of this section are complied with. The Secretary may ap-  
3 prove the voluntary partition of property consisting of  
4 both restricted and unrestricted undivided interests if all  
5 owners of the unrestricted interests consent to such ap-  
6 proval in writing.

7 (b) PARTITION WITHOUT APPLICATION.—If the Sec-  
8 retary determines that any property described in sub-  
9 section (a) is capable of partition in kind to the advantage  
10 of the owners, the Secretary may initiate partition of the  
11 property by—

12 (1) notifying the owners of such determination;

13 (2) providing the owners with a partition plan  
14 for such property; and

15 (3) affording the owners a reasonable time to  
16 respond, object, or consent to the proposal, in ac-  
17 cordance with subsection (d).

18 (c) APPLICATION FOR PARTITION.—

19 (1) IN GENERAL.—An owner or owners of an  
20 undivided interest in any property described in sub-  
21 section (a) may make written application, on a form  
22 approved by the Secretary, for the partition of their  
23 trust or restricted property.

24 (2) DETERMINATION.—If, based on an applica-  
25 tion submitted under paragraph (1), the Secretary

determines that the property involved is susceptible to partition in kind, the Secretary shall initiate partition of the property by—

(A) notifying the owners of such determination;

(B) providing the owners with a partition plan; and

(C) affording the owners a reasonable time to respond, object, or consent in accordance with subsection (d).

(d) PARTITION PROCEDURES.—

(1) PROPOSED LAND DIVISION PLAN.—The Secretary shall give applicants under subsection (c) and nonpetitioning owners of property subject to partition under this section with a reasonable opportunity to negotiate a proposed land division plan for the purpose of securing ownership of a tract on the property equivalent to their respective interests in the undivided estate, prior to taking any action related to partition of the property under this section.

(2) APPROVAL.—If a plan under paragraph (1) is approved by—

(A) Indian citizen owners of more than 50 percent of the property which is entirely in trust status (as distinguished from restricted

1 status) and if the Secretary finds the plan to  
2 be reasonable, fair, and equitable, the Secretary  
3 shall issue an order partitioning the trust prop-  
4 erty in kind; or

5 (B) the Indian citizens who own more than  
6 50 percent of the undivided interests which are  
7 held in restricted status (as distinguished from  
8 trust status) and if the Secretary finds the plan  
9 to be reasonable, fair, and equitable, the Sec-  
10 retary may attempt to negotiate for partition in  
11 kind or for sale of all or a portion of the prop-  
12 erty, and secure deeds from all interest owners,  
13 subject to the Secretary's approval.

14 (3) LIMITATION.—No partition under para-  
15 graph (2)(B) shall be effected unless all of the own-  
16 ers have consented to the plan in writing.

17 **SEC. 205. SURFACE LEASES.**

18 The surface of restricted property may be leased by  
19 an Indian citizen pursuant to the Act of August 9, 1955  
20 (25 U.S.C. 415 et seq.), except that the Secretary may  
21 approve any agricultural lease or permit with respect to  
22 restricted property in accordance with the provisions of  
23 section 105 of the American Indian Agricultural Resource  
24 Management Act (25 U.S.C. 3715).

1 **SEC. 206. MINERAL LEASES.**

2 (a) APPROVAL.—

3 (1) GENERAL RULE.—No mineral lease or  
4 agreement purporting to convey or create any inter-  
5 est in restricted or trust property that is entered  
6 into or renewed after the effective date of this Act  
7 shall be valid unless approved by the Secretary.

8 (2) REQUIREMENTS.—The Secretary may ap-  
9 prove a mineral lease or agreement described in  
10 paragraph (1) only if—

11 (A) the owners of a majority of the undi-  
12 vided interest in the restricted or trust mineral  
13 estate that is the subject of the mineral lease  
14 or agreement (including any interest covered by  
15 a lease or agreement executed by the Secretary  
16 under subsection (c)) consent to the lease or  
17 agreement;

18 (B) the Secretary determines that approv-  
19 ing the lease or agreement is in the best inter-  
20 est of the Indian citizen owners of the restricted  
21 or trust mineral interests; and

22 (C) the Secretary has accepted the highest  
23 bid for such lease or agreement after a competi-  
24 tive bidding process has been conducted by the  
25 Secretary, unless the Secretary has determined  
26 that it is in the best interest of the Indian citi-

1           izen to award a lease made by negotiation, and  
2           the Indian citizen so consents.

3           (b) EFFECT OF APPROVAL.—Upon the approval of  
4 a mineral lease or agreement by the Secretary under sub-  
5 section (a), the lease or agreement shall be binding upon  
6 all owners of the restricted or trust undivided interests  
7 subject to the lease or agreement (including any interest  
8 owned by an Indian tribe) and all other parties to the lease  
9 or agreement, to the same extent as if all of the Indian  
10 citizen owners of the restricted or trust mineral interests  
11 involved had consented to the lease or agreement.

12          (c) EXECUTION OF LEASE OR AGREEMENT BY SEC-  
13 RETARY.—The Secretary may execute a mineral lease or  
14 agreement that affects restricted or trust property inter-  
15 ests on behalf of an Indian citizen owner if that owner  
16 is deceased and the heirs to, or devisees of, the interest  
17 of the deceased owner have not been determined, or if the  
18 heirs or devisees have been determined but one or more  
19 of the heirs or devisees cannot be located.

20          (d) DISTRIBUTION OF PROCEEDS.—The proceeds de-  
21 rived from a mineral lease or agreement approved by the  
22 Secretary under subsection (a) shall be distributed in ac-  
23 cordance with the interest held by each owner pursuant  
24 to such rules and regulations as may be promulgated by  
25 the Secretary.

1       (e) COMMUNITIZATION AGREEMENTS.—No unleased  
 2 restricted or trust property located within a spacing and  
 3 drilling unit approved by the Oklahoma Corporation Com-  
 4 mission may be drained of any oil or gas by a well within  
 5 such unit without a communitization agreement prepared  
 6 and approved by the Secretary, except that in the event  
 7 of any such drainage without a communitization agree-  
 8 ment approved by the Secretary, 100 percent of all reve-  
 9 nues derived from the production from any such restricted  
 10 or trust property shall be paid to the Indian citizen owner  
 11 free of all lifting and other production costs.

12 **SEC. 207. MANAGEMENT OF MINERAL INTERESTS.**

13       (a) OIL AND GAS CONSERVATION LAWS.—

14           (1) IN GENERAL.—The oil and gas conservation  
 15 laws of the State of Oklahoma shall apply to re-  
 16 stricted property.

17           (2) ENFORCEMENT.—The Oklahoma Corpora-  
 18 tion Commission shall have the authority to perform  
 19 ministerial functions related to the enforcement of  
 20 the laws referred to in paragraph (1), including en-  
 21 forcement actions against well operators, except that  
 22 no order of the Corporation Commission affecting  
 23 restricted Indian property shall be valid as to such  
 24 property until such order is submitted to and ap-  
 25 proved by the Secretary.



1           (3) RULE OF CONSTRUCTION.—Nothing in this  
2       subsection shall be construed to limit the authority  
3       of the Indian Nations to protect the environment  
4       and natural resources of restricted property.

5       (b) IMPLEMENTATION OF FEDERAL OIL AND GAS  
6 ROYALTY MANAGEMENT ACT.—Beginning on the effective  
7 date of this Act, the Secretary shall exercise all the duties  
8 and responsibilities of the Secretary under the Federal Oil  
9 and Gas Royalty Management Act of 1982 (30 U.S.C.  
10 1702 et seq.) with respect to an oil and gas lease where—

11           (1) the Secretary has approved the oil and gas  
12       lease pursuant to section 206(a);

13           (2) the Secretary has, prior to the effective date  
14       of this Act, approved the oil and gas lease pursuant  
15       to the Act of May 27, 1908 (35 Stat. 312, chapter  
16       199); or

17           (3) the Secretary has, before the effective date  
18       of this Act, approved an oil and gas lease of lands  
19       of any of the Five Nations pursuant to the Act of  
20       May 11, 1938 (25 U.S.C. 396a et seq.).

21 **SEC. 208. MORTGAGES.**

22       An Indian citizen may mortgage restricted property  
23       only in accordance with and under the authority of the  
24       Act of March 29, 1956 (25 U.S.C. 483a), or other Federal

1 laws applicable to the mortgaging of individual Indian  
2 trust property or restricted property.

3 **TITLE III—PROBATE, HEIRSHIP**  
4 **DETERMINATION, AND OTHER**  
5 **JUDICIAL PROCEEDINGS**

6 **SEC. 301. ACTIONS AFFECTING RESTRICTED PROPERTY.**

7       The courts of the State of Oklahoma shall not have  
8 jurisdiction over actions affecting title to, or use or dis-  
9 position of, trust property or restricted property except as  
10 authorized by this Act or by other Federal laws applicable  
11 to trust property or restricted property.

12 **SEC. 302. HEIRSHIP DETERMINATIONS AND PROBATES.**

13       (a) JURISDICTION.—Except as provided in section  
14 306, the Secretary shall have exclusive jurisdiction, acting  
15 through an administrative law judge or other official des-  
16 ignated by the Secretary, to probate wills or otherwise de-  
17 termine heirs of deceased Indian citizens and to adjudicate  
18 all such estate actions to the extent that they involve indi-  
19 vidual trust property, restricted property, or restricted or  
20 trust funds or securities held or supervised by the Sec-  
21 retary derived from such property.

22       (b) GOVERNING LAWS.—Notwithstanding any other  
23 provision of law, the administrative law judge or other offi-  
24 cial designated by the Secretary shall exercise the Sec-  
25 retary's jurisdiction and authority under this section in

1 accordance with the Indian Land Consolidation Act (25  
2 U.S.C. 2201 et seq.) and such rules and regulations which  
3 heretofore have been, or will be, prescribed by the Sec-  
4 retary for the probate of wills, determination of heirs, and  
5 distribution of property in estates of Indian decedents,  
6 subject to the following requirements:

7           (1) LAW APPLICABLE TO ESTATES OF INDIAN  
8       CITIZEN DECEDENTS WHO DIED PRIOR TO EFPEC-  
9       TIVE DATE.—The administrative law judge or other  
10      official designated by the Secretary shall apply the  
11      laws of descent and distribution of the State of  
12      Oklahoma contained in title 84 of the Oklahoma  
13      Statutes, chapter 4, to all restricted property, trust  
14      property, and all restricted or trust funds or securi-  
15      ties derived from such property in the estates of de-  
16      ceased Indian citizens who died intestate prior to the  
17      effective date of this Act.

18           (2) LAW APPLICABLE TO WILLS EXECUTED  
19      PRIOR TO EFFECTIVE DATE.—The administrative  
20      law judge or other official designated by the Sec-  
21      retary shall determine the validity and effect of wills  
22      as to estates containing trust property or restricted  
23      property when such wills were executed by Indian  
24      citizens prior to the effective date of this Act, in ac-  
25      cordance with the laws of the State of Oklahoma

1 governing the validity and effect of wills, provided  
2 that the will of a full-blood Indian citizen which dis-  
3 inherits the parent, wife, spouse, or children of such  
4 citizen shall not be valid with respect to the disposi-  
5 tion of restricted property unless the requirements of  
6 section 23 of the Act of April 26, 1906 (34 Stat.  
7 137, chapter 1876), as in effect on the day before  
8 the effective date of this Act, are met.

9 (3) LAW APPLICABLE TO WILLS EXECUTED  
10 AFTER EFFECTIVE DATE.—

11 (A) IN GENERAL.—Any Indian citizen who  
12 has attained age 18 and owns restricted prop-  
13 erty or trust property shall have the right to  
14 dispose of such property by will, executed on or  
15 after the effective date of this Act in accordance  
16 with regulations which heretofore have been, or  
17 will be, prescribed by the Secretary for the pro-  
18 bate of wills, provided—

19 (i) no will so executed shall be valid or  
20 have any force or effect unless and until  
21 such will has been approved by the Sec-  
22 retary; and

23 (ii) that the Secretary may approve or  
24 disapprove such will either before or after  
25 the death of the Indian citizen testator.

1           (B) FRAUD.—In any case where a will has  
2           been approved by the Secretary under subpara-  
3           graph (A) and it is subsequently discovered that  
4           there was fraud in connection with the execu-  
5           tion or procurement of the will, the Secretary is  
6           authorized, within 1 year after the death of the  
7           testator, to cancel approval of the will. If an ap-  
8           proval is canceled in accordance with the pre-  
9           ceding sentence, the property purported to be  
10          disposed of in the will shall descend or be dis-  
11          tributed in accordance with the Secretary's  
12          rules and regulations applicable to estates of  
13          Indian decedents who die intestate.

14          (4) FEDERAL LAW CONTROLS.—Notwith-  
15          standing any other provision of this section, Federal  
16          law governing personal claims against a deceased In-  
17          dian citizen or against trust property or restricted  
18          property, including the restrictions imposed by this  
19          Act or other applicable Federal law against the  
20          alienation, conveyance, lease, mortgage, creation of  
21          liens, or other encumbrances of trust property or re-  
22          stricted property shall apply to all such property  
23          contained in the estate of the deceased Indian cit-  
24          izen.

1 **SEC. 303. ACTIONS TO CURE TITLE DEFECTS.**

2 (a) JURISDICTION.—Except as provided in sub-  
3 sections (b) and (c), the United States district courts in  
4 the State of Oklahoma and the State courts of Oklahoma  
5 shall retain jurisdiction over actions seeking to cure de-  
6 fects affecting the marketability of title to restricted prop-  
7 erty, except that all such actions shall be subject to the  
8 requirements of section 305.

9 (b) ADVERSE POSSESSION.—No cause of action may  
10 be brought to claim title to or an interest in restricted  
11 property by adverse possession or the doctrine of laches  
12 on or after the effective date of this Act, except that—

13 (1) all such causes that are pending on the ef-  
14 fective date of this Act in accordance with the provi-  
15 sions of section 3 of the Act of April 12, 1926 (44  
16 Stat. 239, chapter 115), shall be subject to section  
17 306; and

18 (2) an action to quiet title to an interest in re-  
19 stricted property on the basis of adverse possession  
20 may be filed in the courts of the State of Oklahoma  
21 provided that all requirements of Oklahoma law for  
22 acquiring title by adverse possession, including the  
23 running of the full 15-year limitations period, have  
24 been met prior to the effective date of this Act and  
25 the procedures set forth in section 305 shall be fol-  
26 lowed; provided, however, the claimant in any such

1       action must show by clear and convincing evidence  
2       that the limitations period had run in full prior to  
3       the effective date of this Act.

4       (c) HEIRSHIP DETERMINATIONS AND DISPOSI-  
5       TIONS.—Nothing in this section shall be construed to au-  
6       thorize a determination of heirs in a quiet title action in  
7       Federal or State court in derogation of the Secretary’s ex-  
8       clusive jurisdiction to probate wills or otherwise determine  
9       heirs of the deceased Indian citizens owning restricted  
10      property and to adjudicate all such estate actions involving  
11      restricted property pursuant to section 302, or in deroga-  
12      tion of the Secretary’s exclusive jurisdiction over the dis-  
13      position of restricted property under this Act. Provided,  
14      any grantee of an heir who, prior to the effective date of  
15      this Act and in accordance with applicable Federal laws,  
16      conveyed, leased, or otherwise encumbered his or her inter-  
17      est in the restricted property of an unprobated estate of  
18      an Indian citizen decedent shall have standing to request  
19      that the Secretary determine the heirs of the decedent in  
20      order to establish marketable title in said grantee. For  
21      purposes of this subsection the term grantee shall include  
22      any grantee, lessee, or mortgagee of such heir and any  
23      successors or assigns of such grantee.

1 **SEC. 304. INVOLUNTARY PARTITIONS.**

2 (a) JURISDICTION.—The United States district  
3 courts in the State of Oklahoma and the State courts of  
4 Oklahoma shall retain jurisdiction over actions for the in-  
5 voluntary partition of property consisting entirely or par-  
6 tially of undivided restricted interests, subject to the provi-  
7 sions of subsections (b) through (e) and the requirements  
8 in section 306.

9 (b) APPLICABLE LAW.—The laws of the State of  
10 Oklahoma governing the partition of property shall be ap-  
11 plicable to all actions for involuntary partition under this  
12 section, except to the extent that any such laws are in  
13 conflict with any provisions of this Act.

14 (c) PETITION; CONSENT OF OWNERS OF MAJORITY  
15 OF UNDIVIDED INTERESTS.—Any person who owns an  
16 undivided interest in a tract of property described in sub-  
17 section (a) may file an action in the district court of the  
18 State of Oklahoma for the county wherein the tract is lo-  
19 cated for the involuntary partition of such tract. The court  
20 shall not grant the petition unless the owner or owners  
21 of more than 50 percent of the tract consent to the parti-  
22 tion in the verified petition or verified answer filed in the  
23 action.

24 (d) PAYMENT TO NONCONSENTING OWNERS OF RE-  
25 STRICTED INTERESTS.—Nonconsenting owners of undi-



1 vided restricted interests shall receive for the sale of such  
 2 interests their proportionate share of the greater of—

3 (1) the proceeds paid at the partition sale; or

4 (2) an amount equal to 100 percent of the ap-  
 5 praised value of the tract.

6 (e) COSTS.—A nonconsenting Indian citizen owner of  
 7 restricted interests shall not be liable for any filing fees  
 8 or costs of an action under this section, including the cost  
 9 of an appraisal, advertisement, and sale, and no such costs  
 10 shall be charged against such nonconsenting owner's share  
 11 of the proceeds of sale.

12 **SEC. 305. REQUIREMENTS FOR ACTIONS TO CURE TITLE**  
 13 **DEFECTS AND INVOLUNTARY PARTITIONS.**

14 (a) IN GENERAL.—All actions authorized by sections  
 15 303 and 304 shall be conducted in accordance with the  
 16 requirements and procedures described in this section.

17 (b) PARTIES.—

18 (1) UNITED STATES.—The United States shall  
 19 not be a necessary and indispensable party to an ac-  
 20 tion authorized under section 303 or 304. The Sec-  
 21 retary may participate as a party in any such action.

22 (2) PARTICIPATION OF SECRETARY.—If the  
 23 Secretary elects to participate in an action as pro-  
 24 vided for under paragraph (1), the responsive plead-  
 25 ing of the Secretary shall be made not later than 20

1 days after the Secretary receives the notice required  
2 under subsection (c), or within such extended time  
3 as the trial court in its discretion may permit.

4 (3) JUDGMENT BINDING.—After the appear-  
5 ance of the Secretary in any action described in  
6 paragraph (1), or after the expiration of the time in  
7 which the Secretary is authorized to respond under  
8 paragraph (2), the proceedings and judgment in  
9 such action shall be binding on the United States  
10 and the parties upon whom service has been made  
11 and shall affect the title to the restricted property  
12 which is the subject of the action, in the same man-  
13 ner and extent as though nonrestricted property  
14 were involved.

15 (4) RULE OF CONSTRUCTION.—Nothing in this  
16 section shall be construed to waive the requirement  
17 of service of summons in accordance with applicable  
18 Federal or State law upon the individual Indian cit-  
19 izen landowners, who shall be necessary and indis-  
20 pensable parties to all actions authorized by sections  
21 303 and 304.

22 (c) NOTICE.—

23 (1) IN GENERAL.—The plaintiff in any action  
24 authorized by sections 303 and 304 shall serve writ-  
25 ten notice of the filing of such action and of a peti-

1       tion or complaint, or any amended petition or com-  
2       plaint which substantially changes the nature of the  
3       action or includes a new cause of action, upon the  
4       Director of the Regional Office not later than 10  
5       days after the filing of any such petition or com-  
6       plaint or any such amended petition or complaint.

7           (2) FILING WITH CLERK.—A duplicate original  
8       of any notice served under paragraph (1) shall be  
9       filed with the clerk of the court in which the action  
10      is pending.

11          (3) REQUIREMENTS.—The notice required  
12      under paragraph (1) shall—

13           (A) be accompanied by a certified copy of  
14           all pleadings on file in the action at the time of  
15           the filing of the duplicate original notice with  
16           the clerk under paragraph (2);

17           (B) be signed by the plaintiff to the action  
18           or his or her counsel of record; and

19           (C) be served by certified mail, return re-  
20           ceipt requested, and due return of service made  
21           thereon, showing date of receipt and service of  
22           notice.

23          (4) FAILURE TO SERVE.—If the notice required  
24      under paragraph (1) is not served within the time  
25      required under such paragraph, or if return of serv-

1 ice thereof is not made within the time permitted by  
2 law for the return of service of summons, alias no-  
3 tices may be provided until service and return of no-  
4 tice is made, except that in the event that service of  
5 the notice required under such paragraph is not  
6 made within 60 days following the filing of the peti-  
7 tion or complaint or amendments thereof, the action  
8 shall be dismissed without prejudice.

9 (5) LIMITATION.—In no event shall the United  
10 States or the parties named in a notice filed under  
11 paragraph (1) be bound, or title to the restricted  
12 property be affected, unless written notice is served  
13 upon the Director as required under this subsection.

14 (d) REMOVAL.—

15 (1) IN GENERAL.—The United States shall  
16 have the right to remove any action to which this  
17 section applies that is pending in a State court to  
18 the United States district court by filing with the  
19 State court, not later than 20 days after the service  
20 of any notice with respect to such action under sub-  
21 section (c), or within such extended period of time  
22 as the trial court in its discretion may permit, a no-  
23 tice of the removal of such action to such United  
24 States district court, together with the certified copy

1 of the pleadings in such action as served on the Di-  
2 rector of the Regional Office under subsection (c).

3 (2) DUTY OF STATE COURT.—It shall be the  
4 duty of a State court to accept a notice filed under  
5 paragraph (1) and cease all proceedings with respect  
6 to such action.

7 (3) PLEADINGS.—Not later than 20 days after  
8 the filing of a notice under paragraph (1), the copy  
9 of the pleadings involved (as provided under such  
10 paragraph) shall be entered in the district court of  
11 the United States and the defendants and interve-  
12 nors in such action shall, not later than 20 days  
13 after the pleadings are so entered, file a responsive  
14 pleading to the complaint in such action.

15 (4) PROCEEDINGS.—Upon the submission of  
16 the filings required under paragraph (3), the action  
17 shall proceed in the same manner as if it had been  
18 originally commenced in the district court, and its  
19 judgment may be reviewed by certiorari, appeal, or  
20 writ of error in like manner as if the action had  
21 been originally brought in such district court.

22 **SEC. 306. PENDING STATE PROCEEDINGS.**

23 The courts of the State of Oklahoma shall continue  
24 to exercise authority as a Federal instrumentality over all  
25 heirship, probate, partition, and other actions involving re-

1 stricted property that are pending on the effective date  
2 of this Act until the issuance of a final judgment and ex-  
3 haustion of all appeal rights in any such action, or until  
4 the petitioner, personal representative, or the State court  
5 dismisses the action in accordance with State law.

## 6 **TITLE IV—MISCELLANEOUS**

### 7 **SEC. 401. REGULATIONS.**

8 The Secretary may promulgate such regulations as  
9 may be necessary to carry out this Act, except that failure  
10 to promulgate such regulations shall not limit or delay the  
11 effect of this Act.

### 12 **SEC. 402. VALIDATION OF CERTAIN TRANSACTIONS; SAV-** 13 **INGS CLAUSE.**

14 (a) VALIDATION OF CERTAIN TITLE TRANS-  
15 ACTIONS.—Any person having the legal capacity to own  
16 real property in the State of Oklahoma who claims owner-  
17 ship of an interest in such property through an unbroken  
18 chain of title of record, the title to which interest is or  
19 may be defective as a result of any transaction described  
20 in paragraphs (1) through (5) of this subsection that oc-  
21 curred in such chain of title, may cure the defect in title  
22 and validate the transaction by following the procedures  
23 of this section. When all conditions and requirements of  
24 this section have been met, and if no notice of objection  
25 has been timely filed by the Regional Director under sub-

1 section (c) or by any other person under subsection (f),  
2 the transaction shall be validated and shall not be consid-  
3 ered a defect in the muniments of title but only insofar  
4 as the defect is based on or arises from Federal statutes  
5 applicable to the conveyance or inheritance of restricted  
6 property in effect at the time of the transaction.

7 (1) Any probate order issued by a county court  
8 of the State of Oklahoma prior to the effective date  
9 of the Act of June 14, 1918, 40 Stat. 606, pur-  
10 porting to probate the estate of a deceased Indian  
11 citizen who died owning property which was subject  
12 to restrictions against alienation pursuant to Fed-  
13 eral statutes in effect at the time of issuance of such  
14 probate order;

15 (2) Any probate order issued by a county or  
16 district court of the State of Oklahoma more than  
17 30 years prior to the effective date of this Act pur-  
18 porting to probate the estate of a deceased Indian  
19 citizen who died owning property which was subject  
20 to restrictions against alienation pursuant to Fed-  
21 eral law in effect at the time of issuance of such pro-  
22 bate order, where notice was not given as required  
23 by Federal statutes in effect at the time;

24 (3) Any conveyance of record, including an oil  
25 and gas or mineral lease, of an interest in individual

1 trust property or property which was subject to re-  
2 strictions against alienation pursuant to Federal  
3 statutes in effect at the time of the conveyance exe-  
4 cuted by a person who was an heir or purported heir  
5 of the decedent, if such conveyance was approved by  
6 a county or district court in Oklahoma more than 30  
7 years before the effective date of this Act but where  
8 no judicial or administrative order of record was  
9 issued before or after such approval finding that  
10 such person was in fact the heir to the interest con-  
11 veyed;

12 (4) Any conveyance of record, including an oil  
13 and gas or mineral lease, of individual trust property  
14 or property which was subject to restrictions against  
15 alienation pursuant to Federal statutes in effect at  
16 the time of the conveyance that was approved by a  
17 county or district court in Oklahoma or by the Sec-  
18 retary more than 30 years before the effective date  
19 of this Act, where—

20 (A) approval was not in compliance with  
21 the notice requirements of Federal statutes gov-  
22 erning the conveyance of said individual trust  
23 property or said restricted property; or

24 (B) approval was given by a county or dis-  
25 trict court in Oklahoma of a conveyance of the



1 property by a personal representative in a pro-  
2 bate action over which said county or district  
3 court possessed jurisdiction, without compliance  
4 with Federal statutes governing the conveyance  
5 of the property in effect at the time of the con-  
6 veyance;

7 (5) Any conveyance of record, including an oil  
8 and gas or mineral lease, of individual trust property  
9 or property which was subject to restrictions against  
10 alienation pursuant to Federal statutes in effect at  
11 the time of the conveyance that was approved by a  
12 county or district court in Oklahoma or by the Sec-  
13 retary at any time before the effective date of this  
14 Act, where—

15 (A) approval was given by the Secretary  
16 where the Federal statutes governing the con-  
17 veyance of the property required approval by a  
18 county or district court in Oklahoma; or

19 (B) approval was given by a county or dis-  
20 trict court in Oklahoma where the Federal stat-  
21 utes governing the conveyance of the property  
22 in effect at the time of the conveyance required  
23 approval of the Secretary.

24 (b) NOTICE OF CLAIM; SERVICE AND RECORDING.—

25 Any claimant described in subsection (a) must serve writ-

1 ten notice of his or her claim by certified mail, return re-  
2 ceipt requested, on the Regional Director, and file the no-  
3 tice of claim, together with a copy of the return receipt  
4 showing delivery to the office of the Regional Director, in  
5 the office of county clerk in the county or counties wherein  
6 the property is located. The notice shall not be complete  
7 for the purposes of this section until it has been served  
8 on the Regional Director and filed of record as herein pro-  
9 vided. The notice of claim shall set forth the following:

10 (1) The claimant's name and mailing address.

11 (2) An accurate and full description of all prop-  
12 erty affected by such notice, which description shall  
13 be set forth in particular terms and not be general  
14 inclusions; but if said claim is founded upon a re-  
15 corded instrument, then the description in such no-  
16 tice may be the same as that contained in such re-  
17 corded instrument.

18 (3) A specific reference to or description of each  
19 title transaction in the chain of title that the claim-  
20 ant is attempting to validate pursuant to this sec-  
21 tion.

22 (4) A list of all documents of record that are  
23 part of the claimant's unbroken chain of title, copies  
24 of which documents shall be served with the notice.

1       (c) RESPONSE DEADLINE; EXTENSION.—The Re-  
2 gional Director shall have 60 days from date of receipt  
3 of the notice of claim in which to notify the claimant in  
4 writing that the Regional Director exercises discretionary  
5 authority to object to the claim for any reason; provided,  
6 the Regional Director shall be entitled to an automatic ex-  
7 tension of time of 60 days in which to object to the claim  
8 upon the Regional Director's service of written notice of  
9 extension on the claimant within the initial 60-day re-  
10 sponse period.

11       (d) NOTICE OF OBJECTION; REMEDIES.—The Re-  
12 gional Director shall send the notice of objection and any  
13 notice of extension of time to the claimant by certified mail  
14 to the address set forth in the claimant's notice to the  
15 Director. The Director's notice of objection or notice of  
16 extension of time shall include a description of the prop-  
17 erty and shall be effective on the date of mailing. The Di-  
18 rector shall file the notice of objection or notice of exten-  
19 sion of time in the office of the county clerk for the county  
20 or counties wherein the property is located within 30 days  
21 after the date of mailing of the notice to the claimant.  
22 If the Regional Director notifies the claimant that the Re-  
23 gional Director objects to the claim, such decision shall  
24 be final for the Department and the claimant's sole rem-  
25 edies shall be to file an action to cure title defects pursu-

1 ant to section 303 of this Act or to request a determina-  
2 tion of heirs in accordance with section 302 of this Act.

3 (e) UNDISPUTED CLAIM.—If, in the exercise of dis-  
4 cretion, the Regional Director does not object to the claim,  
5 then the Regional Director may notify the claimant that  
6 the matter is not in dispute. Failure of the Regional Direc-  
7 tor to notify the claimant of the Regional Director’s objec-  
8 tion within the initial 60-day period, or within the 60-day  
9 extension period if notice of an extension was given, shall  
10 constitute acceptance of the claim. If the Director does  
11 not file an objection to the claim of record within the time  
12 required by subsection (d), the title transaction described  
13 in the claimant’s notice shall be deemed validated and  
14 shall not be considered a defect in the muniments of the  
15 claimant’s title based on or arising from Federal statutes  
16 governing the conveyance of restricted property in effect  
17 at the time of the transaction, provided that no written  
18 notice of objection is timely filed by other parties in ac-  
19 cordance with subsection (f) of this section.

20 (f) NOTICE OF OBJECTION BY OTHER PARTIES TO  
21 APPLICABILITY OF THIS SECTION.—Any person claiming  
22 ownership of an interest in property the record title to  
23 which includes a title transaction described in subsection  
24 (a) of this section may prevent the application of sub-  
25 sections (a) through (e) to said interest by filing for record

1 in the office of the county clerk for the county or counties  
2 wherein the property in question is located, no later than  
3 3 years after the effective date of this Act, a written notice  
4 of objection in the form of a declaration made under oath  
5 setting forth the following:

6 (1) The declarant's name and mailing address.

7 (2) An accurate and full description of all of  
8 the declarant's property interests to be affected by  
9 such notice, which description shall be set forth in  
10 particular terms and not be general inclusions; but  
11 if said declarant's claim to ownership is founded  
12 upon a recorded instrument, then the description in  
13 such notice may be the same as that contained in  
14 such recorded instrument.

15 (3) A statement that the declarant claims in  
16 good faith to be the owner of an interest in the  
17 property described in the notice and that the declarant  
18 objects to the operation of this section with respect  
19 to any title transaction that would otherwise  
20 be subject to validation under this section.

21 (g) INTERESTS OF HEIRS OF LESS THAN HALF-  
22 BLOOD.—Nothing in this Act shall be construed to  
23 invalidate—

24 (1) any conveyance of record, including a sur-  
25 face, oil and gas, or mineral lease, of an interest in

1 property made prior to the effective date of this Act  
2 by an heir of a deceased Indian citizen without dis-  
3 trict court approval where such heir was of less than  
4 one-half degree of Indian blood, even though the  
5 property was held in restricted status immediately  
6 prior to the decedent Indian citizen's death; or

7 (2) any other encumbrance that attached prior  
8 to the effective date of this Act to an interest in  
9 property of an heir of a deceased Indian citizen  
10 where such heir was of less than one-half degree of  
11 Indian blood, even though the property was held in  
12 restricted status immediately prior to the decedent  
13 Indian citizen's death.

14 (h) TERMS.—For purposes of this section:

15 (1) A person shall be deemed to have an unbroke-  
16 ken chain of title when the official public records, in-  
17 cluding probate and other official public records, as  
18 well as records in the county clerk's office, disclose  
19 a conveyance or other title transaction of record not  
20 less than 30 years prior to the effective date of this  
21 Act, which said conveyance or other title transaction  
22 purports to create such interest, either in—

23 (A) the person claiming such interest; or

24 (B) some other person from whom, by 1 or  
25 more conveyances or other title transactions of

1 record, such purported interest has become  
2 vested in the person claiming such interest;  
3 with nothing appearing of record, in either case,  
4 purporting to divest such claimant of such pur-  
5 ported interest.

6 (2) The term recording, when applied to the of-  
7 ficial public records of any officer or court, includes  
8 filing with the officer or court.

9 **SEC. 403. REPEALS.**

10 (a) IN GENERAL.—The following provisions are re-  
11 pealed:

12 (1) The Act of August 11, 1955 (69 Stat. 666,  
13 chapter 786).

14 (2) Section 2 of the Act of August 12, 1953  
15 (67 Stat. 558, chapter 409).

16 (3) Sections 1 through 5 and 7 through 13 of  
17 the Act of August 4, 1947 (61 Stat. 731, chapter  
18 458).

19 (4) The Act of February 11, 1936 (25 U.S.C.  
20 393a).

21 (5) The Act of January 27, 1933 (47 Stat. 777,  
22 chapter 23).

23 (6) Sections 1, 2, 4, and 5 of the Act of May  
24 10, 1928 (45 Stat. 495, chapter 517).

1           (7) The Act of April 12, 1926 (44 Stat. 239,  
2       chapter 115).

3           (8) Sections 1 and 2 of the Act of June 14,  
4       1918 (25 U.S.C. 375 and 355).

5           (9) Sections 1 through 3 and 6 through 12 of  
6       the Act of May 27, 1908 (35 Stat. 312, chapter  
7       199).

8           (10) Section 23 of the Act of April 26, 1906  
9       (34 Stat. 137, chapter 1876).

10       (b) OTHER ACTS.—

11           (1) IN GENERAL.—Not later than 6 months  
12       after the effective date of this Act, the Secretary  
13       shall prepare and submit to Congress a list of other  
14       provisions of law that—

15           (A) expressly reference property of the  
16       Five Nations or of Five Nations' citizens and  
17       that are in conflict with the provisions of this  
18       Act; or

19           (B) are of general applicability with re-  
20       spect to the property of Indian tribes and of in-  
21       dividual Indians and that are in conflict with  
22       this Act.

23       (2) TECHNICAL AMENDMENTS.—



1 (A) Section 28 of the Act of April 26,  
2 1906 (34 Stat. 137, chapter 1876) is  
3 amended—

4 (i) by striking the first proviso; and

5 (ii) by striking “*Provided further*” and  
6 inserting “*Provided*”.

7 (B) Section 6(c) of the Act of August 4,  
8 1947 (61 Stat. 733, chapter 458) is amended  
9 in the first sentence by striking “of one-half or  
10 more Indian blood”.

11 (C) Section 1 of the Act of October 22,  
12 1970 (84 Stat. 1091), is amended by striking  
13 the last sentence.

14 **SEC. 404. SECRETARIAL TRUST RESPONSIBILITY.**

15 Nothing in this Act shall be construed to waive, mod-  
16 ify, or diminish in any way the trust responsibility of the  
17 United States over restricted property.

18 **SEC. 405. REPRESENTATION BY ATTORNEYS FOR THE DE-**  
19 **PARTMENT OF THE INTERIOR.**

20 Attorneys of the Department of the Interior may—

21 (1) represent the Secretary in any actions filed  
22 in the State courts of Oklahoma involving restricted  
23 property;

24 (2) when acting as counsel for the Secretary,  
25 provide information to all Indian citizens owning re-

1       stricted property (and to private counsel for such  
2       citizens, if any) regarding their legal rights with re-  
3       spect to the restricted property owned by such citi-  
4       zens;

5           (3) at the request of any Indian citizen owning  
6       restricted property, take such action as may be nec-  
7       essary to cancel or annul any deed, conveyance,  
8       mortgage, lease, contract to sell, power of attorney,  
9       or any other encumbrance of any kind or character,  
10      made or attempted to be made or executed in viola-  
11      tion of this Act or any other Federal law, and take  
12      such action as may be necessary to assist such In-  
13      dian citizen in obtaining clear title, acquiring posses-  
14      sion, and retaining possession of restricted property;  
15      and

16           (4) in carrying out paragraph (3), refer pro-  
17      posed actions to be filed in the name of the United  
18      States in a district court of the United States to the  
19      United States Attorney for that district, and provide  
20      assistance in an of-counsel capacity in those actions  
21      that the United States Attorney elects to prosecute.

22   **SEC. 406. FILING REQUIREMENTS; CONSTRUCTIVE NOTICE.**

23       The following orders or other decision documents  
24      which concern restricted property and are issued after the  
25      effective date of this Act by the Secretary, by an adminis-

1 trative law judge, or by any other authorized person pur-  
2 suant to authority of this Act shall be filed in the Regional  
3 Office and in the office of the county clerk in the county  
4 where such restricted property is located: any order or  
5 other decision document removing restrictions, imposing  
6 restrictions, approving conveyances, approving leases, ap-  
7 proving voluntary partitions, approving mortgages, pro-  
8 bating wills or determining heirs, and any notice issued  
9 by the Regional Director pursuant to section 402 of this  
10 Act. The filing of said documents at the Regional Office  
11 shall constitute constructive notice to the public of the ef-  
12 fect of said documents filed. The Secretary shall have au-  
13 thority to certify the authenticity of copies of such docu-  
14 ments and title examiners shall be entitled to rely on said  
15 authenticated copies for the purpose of determining mar-  
16 ketability of title to the property described therein.

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